

# SUPERIOR COURT RULES OF PRACTICE

## I. GENERAL RULES

### **R.P. Rule 1.1. Adoption of Rules - Amendments**

These rules were adopted on January 10, 1966, and may be amended from time to time by the Superior Court (with approval of the ~~s~~Supreme ~~e~~Court). These rules may be cited as Superior Court R.P. These rules were last amended on XXX.

### **R.P. Rule 1.2. Powers of Administrative Judge**

Notwithstanding anything in these Rules of Practice to the contrary, the ~~P~~presiding ~~J~~justice of the Superior Court as the ~~A~~administrative ~~J~~judge, by virtue of G.L. 1956 § 8-2-4 ~~of the General Laws~~, shall continue to have and exercise the powers therein given to him or her.

### **R.P. Rule 1.3. Court Hours**

Except on holidays the Superior Court shall ordinarily sit from 9:30 a.m. to 12:30 p.m. and from 2:00 p.m. to 4:30 p.m., Mondays through Fridays, unless the presiding justice shall order otherwise.

### **R.P. Rule 1.4. Agreements**

All agreements of parties or attorneys touching the business of the court shall be in writing, unless orally made or assented to by them in the presence of the court when disposing of such business, or they will be considered of no validity.

### **R.P. Rule 1.5. Withdrawal and Excuse of Attorneys**

(a) **Withdrawal of Attorney.** No attorney appearing in any case will be allowed to withdraw without the consent of the court. Except where another attorney enters an appearance at the time of such withdrawal, all withdrawals shall be upon motion with reasonable notice to the party represented. No such motion shall be granted unless the attorney who seeks to withdraw shall file with the clerk the last known address of ~~his or her~~ the attorney's client, or the client files his or her address, and in either situation the address which is filed shall be the official address to which notices may be sent.

(b) **Excuse From Attendance.** An attorney's request to be excused from attendance from the Superior Court shall be submitted to the presiding justice and made by motion. ~~The motion~~ shall be served upon the attorney of record of the adverse party for all matters the moving attorney is scheduled to attend including every trial, hearing, motion, calendar call, status conference, and other proceeding preliminary to trial on the merits.

An original and two (2) copies of the submission motion, together with a stamped, self-addressed envelope, shall be filed with the office of the Ppresiding Justice. The submission motion shall contain the following information:

- (1) The period of time for which the excuse is requested;:-
- (2) The reason upon which the request is based. Where the submission-motion is based upon a matter which is personal or confidential in nature, the movant may arrange to meet with the Ppresiding Justice privately prior to the filing of the motion;:-
- (3) The file number and caption of every cause assigned during the period for which the excuse is sought and the name of the attorney of record for each of the adverse parties to that cause;:-
- (4) Where the cause assigned is a trial on the merits, the movant shall obtain approval to be excused for the period requested from the justice in charge of the trial calendar;:-
- (5) Where the cause assigned is a proceeding preliminary to a trial on the merits, the movant shall state whether substitute counsel will attend at that proceeding or whether the proceeding will be continued with the agreement of the attorney of record for the adverse party and, where the justice so requires, with the agreement of the justice before whom the proceeding is scheduled;:-
- (6) Where the movant has no cause assigned during the period for which the excuse is sought, a representation of that fact shall be made;:- and
- (7) A certification that the movant has served a copy of the submission motion on each attorney of record for each of the adverse parties whose cause is assigned during the period for which the excuse is sought.

An attorney of record for an adverse party who objects to the motion shall file an objection with the Ppresiding Justice immediately upon receipt of the submission motion. The Ppresiding Justice may ~~will~~ conduct a hearing on the objection.

**(c) Illness or Absence of Attorney.** In case of sudden illness of an attorney, or the attorney's absence from court from some other imperative and unforeseen cause, the court shall take such action, without notice, as shall appear reasonable in the circumstances.

### **R.P. Rule 1.6. Case Filings**

Every memorandum of law filed with the court shall be printed or typewritten, shall be ~~on good paper and~~ distinctly legible, shall be signed by the attorney presenting it in accordance with Art. X, Rule 7 of the Rhode Island Supreme Court Rules Governing Electronic Filing, and shall contain:

- (1) a ~~A~~ brief and concise statement of the case;:-

(2) ~~¶~~The specific questions raised duly numbered;- and

(3) ~~¶~~The point made, together with the authorities relied on in support thereof.

In cases where it may be necessary for the court to go into an examination of record evidence, each party shall briefly specify in his or her brief the leading facts which the party deems established by the evidence, with a reference to the pages where the evidence of such facts may be found. ~~The size of the paper shall be 8 1/2 " x 11" with not less than one inch margin on each side. The size of type to be used in printing briefs shall be that used in the text of Rhode Island Reports, as near as may be. The format of the case filings shall be in accordance with the Superior Court's Electronic Filing System Guidelines.~~

~~Briefs shall be bound on the left side of the front page and not at the top.~~

### **R.P. Rule 1.7. Probate Appeals**

Probate appeals shall be entitled by the appellant's attorney under the name of appellant against appellee and not against probate courts. The reasons of appeal shall contain the names and residences of all the appellants and the names and residences of the adversary parties who entered appearances in the probate court.

### **R.P. Rule 1.8. Criminal Injuries Compensation Actions [Reserved.]**

~~(a) *Assignment and Hearing.* Unless otherwise ordered by the Presiding Justice, those civil actions filed under the provisions of Chapter 25 of Title 12 of the General Laws of Rhode Island, "Criminal Injuries Compensation Act," shall be assigned and heard by the administrator/master of the superior court in the chronological order in which such action was filed on a statewide basis.~~

~~In order to assure fairness in the distribution of those monies available from the "violent crimes indemnity fund," no order approving a settlement by the treasurer and the claimant shall be entered by the court until such action has been called in the chronological order of its being filed, unless otherwise ordered by the Presiding Justice, or the administrator/master, upon good cause being shown.~~

~~In order to assist counsel, a list of those cases filed under the "Civil Injuries Compensation Act" shall be on file in each of the superior court clerk's offices.~~

~~(b) *Attorney's Fees.* In determining the amount of compensation to be awarded an attorney in the prosecution of an action pursuant to the Criminal Injuries Compensation Act (Chapter 25 of Title 12) the court shall consider the time expended by the plaintiff's attorney in preparation and in court attendance, the total amount awarded to the plaintiff for injuries incurred, and the amount of revenue in the violent crimes indemnity fund, together with the number and the nature of claims pending against it.~~

~~The amount of compensation awarded to plaintiff's attorney shall not exceed fifteen percent (15%) of the total amount awarded to said plaintiff, or two thousand dollars (\$2,000), whichever is less; provided however, that in unusual circumstances, the court may award a larger attorney's~~

~~fee if it finds that a departure from the limits set forth herein is warranted, stating specific reasons upon which said finding and award is based.~~

**~~R.P. Rule 1.9. Cancellation of Court Sessions - Adverse Weather Conditions~~**

~~*Providence/Bristol Counties.* In the event of a public announcement made prior to the beginning of court sessions that because of adverse weather conditions there shall be no sessions of the Superior Court, or that the Superior Court shall be closed for the day, such announcement shall mean that all trials (jury and non-jury), all hearings, and all conferences shall be cancelled. Said trials, hearings, and conferences shall receive priority the next court day.~~

~~In the event that trials, hearings and conferences are in progress while inclement weather is developing, the presiding justice will provide notification to the justices presiding at such trials, hearings, and conferences whether such trials, hearings and conferences should be adjourned for the day.~~

~~*Kent, Washington and Newport Counties.* In the event of adverse weather conditions, whether such conditions exist prior to the beginning of court sessions or develop while court is in session, the senior associate justice assigned to Kent, Washington and Newport Counties, respectively, after consultation with the Presiding Justice, shall determine whether Superior Court sessions will be cancelled, or will continue, as the case may be.~~

**~~R.P. Rule 1.10. Unauthorized Video and Audio Recording Prohibited~~**

(a) All media coverage of judicial proceedings is permitted in accordance with Article VII of the Supreme Court Rules.

(b) Except as provided in subsection (a), no person shall engage in any tape recording, video, or audio taping or photographing of any proceeding of the Superior Court including any conference, formal, or informal, conducted by any justice or magistrate ~~master~~ of the Superior Court without the express authorization of the trial justice or magistrate ~~master~~ and the assent of all parties.

**II. CALENDARS**

**~~R.P. Rule 2.1. No Assignment of Cases on Certain Days~~**

Cases will not be assigned for hearing upon any legal holiday, Good Friday, or upon any day within the period from December 19~~th~~ to New Year's Day, each date inclusive. Matters deemed by the court to be urgent may be heard on such days.

**~~R.P. Rule 2.2. Administration of Court Calendars - Kent, Newport, and Washington Counties~~**

~~In and for the Counties of Kent, Newport, and Washington Counties there shall be a criminal calendar and a civil calendar. These calendars shall be administrated in accordance with this rule, subject to amendment by an administrative order of the Ppresiding Jjustice.~~

(a) *The Criminal Calendar.* The justice or magistrate assigned to the criminal calendar shall qualify and receive the report of the grand jury, dispose of motions related to criminal proceedings, preside at trials of indictments, informations and complaints, assign motions for the reduction of sentence for disposition by the justice or magistrate who presided at the trial of the movant, dispose of such motions in cases wherein the trial justice or magistrate is no longer a member of the court and perform such other duties as in his or her judgment may be necessary for the complete administration of the calendar.

(b) *The Civil Calendar.* The justice or magistrate assigned to the civil calendar shall qualify the petit jury, dispose of matters on the miscellaneous calendar, which calendar comprises all civil motions and those civil matters which are more specifically described as formal and special cause matters, preside at trials of civil causes, dispose of applications for post-conviction relief in any case wherein the trial justice or magistrate is no longer a member of the court, assign such applications for dispositions by the justice or magistrate who presided at the trial of the applicant, dispose of appeals taken under the administrative procedures and zoning enabling acts, decide petitions for extraordinary writs and perform such other duties as in his or her judgment may be necessary for the complete administration of the calendar.

**R.P. Rule 2.3. Administration of Calendars – Providence/and Bristol Countyies**

~~In and for the counties of Providence/and Bristol County there shall be a combined criminal and civil trial calendars presided over by a designated assignment justice judge or magistrate. The process and requirements for the Providence/Bristol County calendars shall be set forth in an administrative order issued either by the presiding justice or the designated assignment justice or magistrate assigned to the respective calendar. The calendars in Providence/Bristol County, which are subject to change, are as follow: Criminal calendar; civil calendar; daily criminal calendar; formal and special cause calendar; motion calendar; pre-arraignment calendar; pre-trial calendar; business calendar; fines, costs, and/or restitution calendar; sexual violent predator calendar; adult drug calendar; gun calendar; and domestic violence calendar.~~

~~(a) *The Criminal Calendar.* The calendar of criminal cases assigned for said counties shall be called on Thursday of each week at 9:30 a.m. by the assignment judge during which the status of the cases for trial shall be communicated to the assignment judge by the designated trial attorney for the state and the defendant(s).~~

~~At the calendar call, no oral motion for a continuance of the trial shall be granted. A motion for a continuance shall be in writing and filed with the judge in charge of the trial calendar not later than the Tuesday prior to the Thursday calendar call to which the case has been assigned. A copy of said motion shall be served upon opposing counsel. The motion shall be heard at the Thursday calendar call or at such other time prior thereto as the assignment judge may designate.~~

~~A motion for continuance shall set forth the grounds therefor. A motion which seeks a continuance on the ground that a witness or a defendant is not available for the trial to proceed shall be accompanied by the affidavit of a person having personal knowledge of the specific reasons for the unavailability of the witness or the defendant and for what length of time.~~

~~Upon addressing and deciding all administrative matters, the administrative judge shall assign cases for trial to a judge assisting on the combined trial calendar as said judges become available. The assignment of a case to a trial judge by the assignment judge shall constitute a determination by said assignment judge that the case is to be disposed of by the trial judge either by a trial or by the plea of the defendant. A trial judge to whom a case has been assigned shall not return that case to the assignment judge except where the trial judge has found cause for recusal and except for such cause, the assignment judge shall not accept the return of the case.~~

~~If, prior to being reached for trial, a case previously called ready for trial is no longer ready due to a change in circumstances, the assignment judge shall be notified in writing with a copy to opposing counsel. The notice shall state specifically the change of circumstances and when it is expected that the case will again be ready for trial. If there is an objection by opposing counsel, the assignment judge shall hear and determine the request on the record and an appropriate order shall be entered.~~

~~(b) *The Civil Calendar.*~~

- ~~(1) The calendar of civil trial cases assigned for Providence and Bristol Counties shall be called on Friday of each week at 9:30 a.m. by the assignment judge. At the calendar call the status of the case for trial shall be communicated to the assignment judge by the designated trial attorneys for the plaintiff(s) and defendant(s).~~

~~Requests for continuances or any other consideration shall be made to the assignment judge at the call of the calendar and only for good cause shown shall they be granted.~~

~~Upon addressing and deciding all administrative matters, the assignment judge or magistrate shall assign cases for trial to a judge assisting on the combined trial calendar as said judges become available. A trial judge to whom a case has been assigned shall not return that case to the assignment judge except where the trial judge has found cause for recusal and except for such cause the assignment judge shall not accept the return of the case.~~

- ~~(2) A calendar of civil control cases for Providence/ and Bristol Countyies shall be called on Monday, Tuesday, and Wednesday of each week at 9:30 a.m. The number of cases shall be determined by the assignment judge.~~

~~The assignment judge shall conduct an issues and settlement conference with the designated trial attorneys in accordance with R.P. 2.5. If the controversy is not resolved, the case shall be assigned to the combined trial calendar.~~

~~(c) *The Daily Criminal Calendar.*~~

- ~~(1) The justice assigned to the daily criminal calendar shall qualify and receive the report of the grand jury, dispose of motions relating to criminal proceedings other than motions to suppress evidence, conduct arraignments and bail and violation hearings,~~

~~and perform such other duties as in his or her judgment may be necessary for the complete administration of the calendar.~~

- ~~(2) When the justice assigned to the daily criminal calendar is in need of assistance on any day, he or she shall call upon the assignment judge or magistrate to assign any judge then available to lend such assistance.~~

~~(d) *The Formal and Special Cause Calendar.*~~

- ~~(1) The justice assigned to the formal and special cause calendar shall dispose of emergency matters, proceedings which do not require contested evidentiary hearings. Without limiting the generality of the foregoing, proceedings assigned to this calendar will include: formal matters, agency appeals, proofs of claims, preliminary injunctions, proceedings to dissolve a temporary restraining order, contempt proceedings, receivership proceedings, supplemental relief proceedings, petitions for extraordinary legal remedies, and complaints for declaratory judgment submitted entirely on an agreed statement of facts.~~
- ~~(2) Such proceedings may be assigned for hearing in Providence by agreement or on motion, Monday through Friday of each week.~~
- ~~(3) Appeals to the Superior Court taken under the administrative procedures or zoning enabling acts shall be assigned by the clerk to the formal and special cause calendar. The justice assigned to the calendar shall submit such appeals for disposition, on a rotational basis, to the justices assigned to the trial calendar.~~
- ~~(4) Applications for post-conviction relief shall be assigned by the clerk to the formal and special cause calendar. The justice assigned to the calendar shall submit the application, as the case may be, for disposition by the justice who presided at the trial of the applicant. In any case where the trial justice is no longer a member of the court, the justice assigned to the calendar shall submit the application for disposition, on a rotational basis, to the justice assigned to the trial calendar.~~
- ~~(5) The justice assigned to the formal and special cause calendar shall perform such other duties as in his or her judgment may be necessary for the complete administration of the calendar.~~
- ~~(6) The Presiding Justice may limit the number of cases to be assigned to this calendar on a given day and may from time to time issue detailed regulations for the operation of this calendar.~~

~~(e) *The Motion Calendar.*~~

- ~~(1) The motion calendar shall be administered on Tuesday, Wednesday and Thursday of each week.~~

- ~~(2) No motions other than dispositive motions shall be assigned for hearing on Tuesday of each week.~~
- ~~(3) The justice assigned to the motion calendar or, by delegation, his or her clerk shall regulate the assignment of dispositive motions to the Tuesday motion calendar as well as the dates on which briefs and supporting documentation are to be filed.~~
- ~~(4) The justice assigned to the motion calendar shall utilize Monday and Friday of each week for preparation towards the disposition of dispositive motions and, in his or her discretion when not so engaged, to assist on the formal and special cause calendar.~~
- ~~(5) The justice assigned to the motion calendar shall perform such other duties as in his or her judgment may be necessary for the complete administration of the calendar.~~

~~(f) *The Pre-arraignment and Pre-trial Calendars.* The justice and/or master assigned to the pre-arraignment and pre-trial calendars shall administer each calendar in accordance with this rule. Each calendar shall be called each day at 9:30 a.m.~~

~~(1) *Pre-trial Conference Calendar.*~~

- ~~(a) A pre-trial conference calendar shall be called each day at 9:30 a.m. by the assignment judge.~~
  - ~~(b) Prior to the call of a case on the pre-trial calendar, the prosecution and defense shall discuss the facts of the case and the possible disposition of the case without a trial thereof in light of those facts.~~
  - ~~(c) At the conference, the parties shall be prepared to discuss their respective positions in clear and concise terms. The prosecution shall disclose to the assignment judge and to the defense the statement of each victim pertaining to the sentencing of the defendant and any prior conviction of the accused.~~
  - ~~(d) The prosecution shall provide the assignment judge with its best estimate of the duration of its case. In the event that the defense may present testimony in defense, it shall provide the assignment judge with its best estimate of the duration of its case.~~
  - ~~(e) No continuance of a pre-trial conference shall be granted except by the trial judge and then only for good cause and to a date not beyond the date on which the case is scheduled to be called.~~
- ~~(2) *The Pre-arraignment Calendar.* Every person accused of the commission of a felony shall, if he or she is without counsel at his or her initial appearance before the District Court, be informed in writing that:~~

- ~~(a) If the accused intends to be represented by an attorney such attorney must enter an appearance on behalf of the accused not later than two weeks following the initial appearance.~~
- ~~(b) If an attorney does not enter an appearance on behalf of the accused within two weeks of the initial appearance, the accused must personally appear before the District Court on the fourteenth day following the initial appearance.~~
- ~~(c) If the accused fails to appear personally before the District Court, an attorney not having entered an appearance on behalf of the accused, a warrant will issue for the apprehension of the accused.~~

~~Four (4) weeks following the initial appearance of the accused before the District Court, a representative of the Attorney General and of the law enforcement agency which preferred the felony complaint shall meet to review the evidence forming the basis of the complaint. In the event that the representative of the Attorney General determines that the case shall not proceed further, the complaint shall be dismissed and counsel for the accused and the accused shall be notified of the dismissal. Where it is determined otherwise, counsel for the accused shall have copies of all police reports made available during the fifth and sixth weeks after the initial appearance at a place designated by a representative of the attorney general.~~

~~Seven (7) weeks following the initial appearance, counsel for the accused shall meet with a representative of the attorney general, at a place designated by the latter, to ascertain whether the felony might be disposed of by the plea of the accused. If it appears that the felony will be so disposed of, § 12-28-4.1, (1981 Reenactment) shall be complied with.~~

~~Nine (9) weeks following the initial appearance, counsel for the state and for the accused shall meet with the court in camera and inform the court of the terms of the proposed plea agreement.~~

~~Ten (10) weeks following the initial appearance, the accused shall either be arraigned or shall enter a plea disposing of the charge.~~

~~In those cases involving the possession or sale of a controlled substance where no toxicology report has been received by the ninth week, the Court may continue the pre arraignment conference and the arraignment of the defendant for such periods of time as may be necessary to receive a toxicology report.~~

#### **R.P. Rule 2.4. Civil Trials - Status Conference**

The process and requirements for status conferences shall be set forth in an administrative order issued either by the presiding justice or the justice or magistrate assigned to the calendar.

Upon a case being scheduled for a status conference:

- ~~(a) The discovery in progress on the date of said scheduled conference or commenced thereafter shall not be cause for a continuance of the trial of said case.~~

~~(b) Counsel for the plaintiff shall forthwith communicate with counsel for the defendant and each with his/ or her respective client in a good faith effort to settle the controversy.~~

~~(c) If a good faith effort to settle the controversy is unsuccessful, each counsel at the pre trial conference with the assignment judge shall be prepared to succinctly and concisely state his or her respective positions and the basis for those positions including final demands and offers of settlement; an explanation of the particular barriers to settlement; the number of witnesses to be presented by each party; and the approximate number of trial days required by each party.~~

~~(d) If the controversy is settled, a stipulation effectuating the settlement shall be filed with the clerk of the court and a copy thereof with the case scheduling office not later than 2:00 p.m. on the business day prior to the day scheduled for the status conference.~~

**R.P. Rule 2.5. Motion Days for Kent, Newport, and Washington Counties**

The Superior Court shall be in session for the purpose of hearing motions in the various counties as follows:

~~(a) In and for the County of Kent County, on the second and fourth Monday of each and every month, excepting the last Monday in December.~~

~~(b) In and for the County of Washington County, on the third Monday of each and every month, excepting the month of July and the third Monday of December which falls between December 18 and December 22.~~

~~(c) In and for the County of Newport County, on the first Monday of each and every month.~~

Whenever a motion day falls on a legal holiday wherein the court is not in session, motions will be heard on the next business day of the court.

**R.P. Rule 2.6. Court Sessions**

All Superior Court criminal and civil calendars for all counties shall be called by the justice or magistrate assigned at 9:30 a.m.

**R.P. Rule 2.7. District Court Civil Appeals**

(a) In and for all counties, District Court civil appeals, which are not subject to arbitration, shall be disposed of as follows:

(1) An appeal from a judgment of the District Court, if the case be for tenement let, or held at will or by sufferance, or pertaining to a lease of land, shall be assigned to the trial calendar by the Clerk of the County immediately upon certification of the appeal to the Superior Court.

(2) Except as in this Rule of Practice otherwise provided, an appeal from a judgment of the District Court shall be assigned to the trial calendar by the Clerk of the County

immediately upon the expiration of ten (10) days after certification of the appeal to the Superior Court.

- (3) No appeal from the District Court, including an appeal which is subject to arbitration, shall be assigned for trial in accordance with this order unless the certification of the appeal to the Superior Court discloses that the judgment appealed from has been entered in accordance with the provisions of District Court Civil Rule 58(a).
- (4) An appeal from a judgment entered by agreement or submission in accordance with the provisions of District Court Civil Rule 58(b) shall be assigned by the clerk only after a motion to assign has been granted.

(b) District Court civil appeals which are subject to arbitration shall be disposed of as follows:

- (1) On the first business day of each week, the clerk shall transmit to the Arbitration Office the Superior Court case number and the caption of every case which he or she has received in the course of the prior week as an appeal from the District Court which is subject to Court-Annexed Arbitration as provided by Rule 1(a) of the Rules and Regulations Governing the Arbitration of Civil Actions in Superior Court.
- (2) Immediately upon the receipt of such list of cases from the clerk, the Arbitration Office shall designate all of the cases on the list for arbitration as required by Rule 7 of the Rules and Regulations Governing the Arbitration of Civil Actions in Superior Court.

### **R.P. Rule 2.8. Non-Jury Matters**

(a) *Non-jury Civil Trials.* No cause assigned to the civil trial calendar which is to be tried on the merits to the court without the intervention of a jury shall proceed to trial or disposition until all of the parties to the cause shall have provided the court with a pre-trial memorandum. The pre-trial memorandum shall be filed not later than the Tuesday preceding the Friday on which the case is scheduled for a trial calendar call.

(1) The process and requirements for pre-trial memorandum shall be set forth in an administrative order issued either by the presiding justice or the justice or magistrate assigned to the calendar.

~~(1) The pre-trial memorandum shall contain:~~

~~(a) All facts which have been agreed upon.~~

~~(b) A denomination of each document or thing which the parties have agreed is to be received in evidence as a full exhibit.~~

~~(1) As to each of such exhibits, the trial justice will receive and have it marked as a full exhibit prior to the opening statement of the party proffering the exhibit.~~

~~(2) Where a cause is submitted upon an agreed statement of facts, such exhibits shall be marked by counsel and be accompanied contemporaneously by the pre-trial memorandum.~~

~~(c) As to any document or thing which a party intends to offer as in exhibit and to which an adverse party will interpose an objection at trial. A statement of the grounds for the admission or exclusion as an exhibit with citation to the authorities supporting such admission or exclusion.~~

~~(d) If expert testimony will be presented, the qualifications to which the expert will testify.~~

~~(e) If expert testimony will be presented, a statement by the adverse party whether or not the qualifications of the expert are admitted.~~

~~(f) If expert testimony will be presented and an adverse party will interpose an objection to the qualifications of the expert witness at trial, a statement of the grounds for the admission or exclusion of the expert testimony with citation to the authorities supporting such admission or exclusion.~~

~~(g) A copy of each case cited other than a case decided by the R.I. Rhode Island Supreme Court.~~

~~(h) Each issue which the court will be called upon to decide.~~

(2) If the court has not rendered its findings of fact and conclusions of law in accordance with Super.R.Civ.P. 52(a):

(Aa) Within ninety (90) days following the close of all the testimony, or;

(Bb) In the event that the court requires the parties to submit either proposed findings of fact and conclusions of law in accordance with said rule or a memorandum of law or both, within ninety (90) days following the receipt by the court of the last of such submission, or;

(Ce) If the court permits or requires oral argument, within ninety (90) days following the completion of oral argument,

a notice that the court has not rendered its decision in the cause may be forwarded to the Presiding Justice by a single document signed by counsel for each party to the cause.

(b) *Administrative Appeals.* No cause requiring the court to review the decision of a state or municipal agency shall be assigned to a justice or magistrate unless the assignment to the justice is accompanied contemporaneously by the memorandum of law of each party and the entire record of the proceedings before the state or municipal agency.

If the court has not rendered its judgment affirming, reversing, or modifying the decision under review:

- (1) Within ninety (90) days following the assignment, or;
- (2) In the event that the court requires the parties to submit proposed findings of fact and conclusions of law in accordance with Super.R.Civ.P. 52(a), within ninety (90) days following the receipt by the court of the last of such submissions, or;
- (3) If the court permits or requires oral argument, within ninety (90) days following the completion of oral argument,

a notice that the court has not rendered its judgment in the cause may be forwarded to the Presiding Justice by a single document signed by counsel for each party to the cause.

**R.P. Rule 2.9. Proceeding on Appeal from a Magistrate Master**

(a) *Applicability.* An appeal of the decision of any magistrate Master of the Superior Court shall be filed in accordance with the provisions of this rule.

(b) *Appeal - How Taken.* An appeal shall be taken by filing a notice of appeal in the Superior Court Clerk's Office for the county in which the cause before the magistrate Master was heard. No filing fee shall be required. The party or parties taking the appeal shall order and pay for a transcript of the proceedings thereon.

(c) *Contents of Notice of Appeal.* The notice of appeal shall specify the party or parties taking the appeal and shall designate the judgment, order, or decree or part thereof appealed from and the basis for the appeal.

(d) *Service of the Notice of Appeal.* The ~~Clerk of the~~ Superior Court shall serve notice of the filing of a notice of appeal ~~by mailing a copy thereof to the attorney counsel~~ of record of each party or self-represented litigant other than the appellant. The ~~Clerk of the~~ Superior Court shall note on each copy served the date on which the notice of appeal was filed.

(e) *Appeal - When Taken.* The notice of appeal required shall be filed within twenty (20) days of the date of the entry of the judgment, order, or decree appealed from.

(f) *Record on Appeal.* The original papers and exhibits filed with the ~~Clerk of the~~ Superior Court, the transcript of the proceedings, and the docket entries shall constitute the record on appeal.

(g) *Assignment.* The Superior Court Justice assigned to the Formal and Special Cause Calendar in Providence/Bristol County or the Superior Court Justice assigned to the civil calendar in ~~the counties of~~ Kent, Newport, or Washington Counties shall assign the matter for hearing within sixty (60) days after the appellant files the required transcript with the ~~clerk of the~~ court. If the transcript is not filed within sixty (60) days of the entry of the judgment, order, or decree, except for good cause shown, the appeal shall be dismissed.

(h) *Review.* The Superior Court Justice shall make a de novo determination of those portions to which the appeal is directed and may accept, reject, or modify, in whole or in part, the judgment, order, or decree of the ~~magistrate Master~~. The Justice, however, need not formally conduct a new hearing and may consider the record developed before the ~~magistrate Master~~, making his or her own determination based on that record whether there is competent evidence upon which the ~~magistrate's Master's~~ judgment, order, or decree rests. The justice may also receive further evidence, recall witnesses or recommit the matter with instructions.

### III. RECORDS

#### **R.P. Rule 3.1. Docketing**

All cases shall be docketed and numbered consecutively in the classes to which they respectively belong. The classes will include the following: Civil Actions; Indictments and Informations; Criminal Appeals; Appeals other than Criminal; Miscellaneous Petitions and Proceedings.

#### **R.P. Rule 3.2. Clerk Notes [Reserved.]**

~~The travel of each case assigned for motion, conference, hearing, or trial shall be recorded by the clerk on separate forms for each event. These Clerk notes shall be filed with the case file and are part of the record.~~

#### **R.P. Rule 3.3. Matters Not for Publication**

Matters of record which are sealed by the court pursuant to statute or court order shall not be furnished by the court for publication or given out for inspection to anyone except as provided by statute, by these Rules of Practice as specified herein, or by order of the court.

Whenever a child victim is identified in any child molestation sexual assault case ~~filed on or after July 20, 1998~~, a dual filing system shall be established for that case. During the prosecution and disposition of such a case, a “public file” and a “confidential court file” shall be maintained. The public file shall contain the charging document (indictment, information, or application filed in accordance with the Rhode Island post-conviction relief statute, ~~R.I.G.L. § 1956~~ 10-9.1-1) with the name and identifying information of the child victim redacted. “Redaction” is defined as the obliteration of victim-identifying information in the documents placed in the public file. The name and address of the victim shall be redacted along with any familial-identifying information such as the relationship, if any, between the child victim and the accused. A fictitious name may be substituted for the victim's actual name.

Such redaction or substitution shall be carried out by the party placing the material on file, e.g. the Office of the Attorney General in criminal cases and the plaintiff or other party placing material on file in related civil suits. When applicable, a party submitting material that identifies a victim shall submit two (2) versions of each document to be placed on file: one version from which all victim-identifying information has been redacted or made fictitious, to be placed in the public file; a second version of the same document, unredacted, to be placed in the confidential court file. The foregoing does not preclude the submission, when appropriate, of two (2)

identical copies of a non-victim-identifying document, one of which is to be placed in the public file and one in the confidential court file.

The public file shall not include in any form, redacted or otherwise, victim-specific documents relating to the child victim that are otherwise confidential in accordance with statute or policy. Such excluded documents include, but are not limited to, school records, medical records, reports from the Department of Children, Youth and Families, reports or records of counselors, therapists, and social workers, or other similar victim-specific documents which are privileged by law or custom. All other documents, not victim-specific, shall be placed in the public file, in redacted form as necessary in accordance with this rule.

**R.P. Rule 3.4. Partition Plats [Reserved.]**

~~All plats of partition of real estate required by law to be filed in the clerk's office shall be on white drawing paper mounted on cloth and of the size of 31 x 20 inches. If necessary a plat may consist of two (2) or more such sheets.~~

**R.P. Rule 3.5. Transcripts**

Policies and procedures regarding the ordering, payment, and delivery of transcripts shall be promulgated by the Supreme Court Finance and Budget Office of the Administrative Office of State Courts. The most current version of the transcript policy and procedure is located on the Judiciary's website at [www.courts.ri.gov](http://www.courts.ri.gov) under the heading of Quick Links on the home page.

~~(a) *Orders for Transcript.* An order for transcript filed in the office of the Superior Court Administrator will be received only when accompanied by a check or cash in the full amount as determined by the court reporters' estimate.~~

~~Requests for transcripts ordered by the court at state expense must be accompanied by a copy of the signed court order.~~

~~Orders for transcripts when parties have agreed to share costs will be received only when accompanied by a check or cash in the full amount covering the estimated cost as determined by the court reporter. Arrangements as to prorating costs shall be completed privately by the parties.~~

~~(b) In proceedings to appeal to the Supreme Court, the Superior Court shall allow not more than sixty (60) days for the delivery of the transcript to the Clerk of the Supreme Court.~~

~~(c) If the transcript is not delivered by the court reporter to the Clerk of the Supreme Court within the sixty (60) days or lesser period, the trial justice in the Superior Court, or in his or her absence any justice of said court, may extend the time for the delivery of such transcript to the Clerk of the Supreme Court for a period not to exceed ninety (90) days from the date of the filing of the claim of appeal.~~

~~(d) If the transcript is not delivered to the Clerk of the Supreme Court within the sixty (60) days or lesser period and it becomes necessary to extend the time for such delivery, said court reporter shall retire from service in the court upon the termination of the trial in which said court~~

~~reporter shall be then engaged, and shall not resume such service in said court until said transcript shall have been delivered to the Clerk of the Supreme Court; provided that the Presiding Justice of the Superior Court, or, in his or her absence, any justice of said court designated by him or her, if the business of the court requires, may order said court reporter at any time to resume service in said court.~~

(e) Each court reporter of the court and court reporter for occasional service shall file in the Office of the Court Administrator on the 15th day of each month a complete list of all cases from any county ordered transcribed and uncompleted by said court reporter, with the date of order and extension or extensions allowed by the court.

~~(f) Within ten (10) days after filing the notice of appeal, the appellant shall order from the court reporter the entire transcript or parts thereof and shall deposit with the Office of the Court Administrator the estimated cost for preparing said transcript.~~

~~(g) Upon the filing of the transcript with the Clerk of the Supreme Court, the court reporter shall obtain from said clerk evidence of such filing which shall forthwith be delivered to the Office of the Court Administrator. Thereafter, the Office of the Court Administrator shall forthwith notify the Clerk of the Superior Court of the filing of the transcript in the Office of the Clerk of the Supreme Court. Whereupon the Clerk of the Superior Court shall forthwith prepare a certified copy of the docket entries prepared by the clerk of the trial court and transfer said records to the Clerk of the Supreme Court.~~

~~(h) Immediately after the court reporter files the transcript with the Clerk of the Supreme Court, said court reporter shall notify the person ordering the transcript of its filing in the Supreme Court. Said person ordering the transcript shall thereafter notify all other parties and/or attorneys representing parties of the filing of the transcript with the Clerk of the Supreme Court.~~

~~(i) The Presiding Justice of the Superior Court shall oversee all matters pertaining to the court reporters of the Superior Court.~~

### **R.P. Rule 3.6. Removal of Inactive Cases from Files**

The clerks for the several counties are hereby authorized from time to time in their discretion to remove from the active files in the files in their offices and to transfer to inactive files to be maintained elsewhere under their direction in the county courthouses or at such other place as may be authorized by the court, the papers in all cases which have been pending upon any docket for five (5) years or longer and which appear to have become inactive. The papers in any case so transferred may be at any time upon motion of a party or in the clerk's discretion returned to the active file. Upon the implementation of electronic filing, court records shall be maintained in accordance with the Rhode Island Judiciary Records Retention Schedule.

### **R.P. Rule 3.7. Flat Filing [Reserved.]**

~~The files in the clerk's office shall be kept under the system commonly known as "flat filing." All papers presented for filing should be 8 1/2 " x 11" so far as possible, not folded and without legal "backs" attached. Caption, number of case, attorneys' name, address, identification number~~

~~and telephone number should appear on the face of papers filed. Papers should have typewriting on the face only.~~

**R.P. Rule 3.8. Indictments**

~~Prior to electronic filing, original indictments are to be kept in the file folders of each case. Upon implementation of electronic filing, the electronic filer must retain the original version of a document, attachment, or exhibit that was filed electronically.~~

**R.P. Rule 3.9. Notation of Assignments when Closing Cases [Reserved.]**

~~Counsel when filing orders or agreements disposing of pending actions, other than in open court or at a pretrial conference, are required to note on said order or agreement whether the case stands assigned for trial.~~

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